

**OFFICE OF THE CLERK**  
**UNITED STATES DISTRICT COURT**  
**Northern District of California**

**CIVIL MINUTES**

**Date:** September 20, 2018

**Time:** 3:46 – 4:02 =  
16 Minutes

**Judge:** EDWARD M. CHEN

**Case No.:** [18-cv-02992-EMC](#)

**Case Name:** J.T. v. Antioch Unified School District

**Attorney for Plaintiff:** Nicole Amey

**Attorney for Defendant:** Brian Duus

**Deputy Clerk:** Angella Meuleman

**Court Reporter:** Katherine Sullivan

**PROCEEDINGS**

[20] Motion to Dismiss held.

**SUMMARY**

For the reasons stated on the record, Defendant's motion to dismiss (Docket No. 20) is GRANTED IN PART and DENIED IN PART. (1) The motion is denied as moot with respect to Plaintiffs' failure to appoint a guardian ad litem. (2) Plaintiffs' claim under 42 U.S.C. § 1983 is dismissed with prejudice with respect to the Antioch Unified School District, but with leave to amend with respect to any individual defendants. (3) Plaintiffs' claim under Section 504 of the Rehabilitation act is dismissed without leave to amend. (4) Plaintiffs' claim under Title II of the Americans with Disabilities Act is dismissed with leave to amend. (5) Defendant disclaimed moving to dismiss Plaintiffs' claim under Title VI of the Civil Rights Act of 1964; the Court notes that such a claim would not be foreclosed by Eleventh Amendment immunity. *See Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969, 973 (9th Cir. 2004).

Should Plaintiffs choose to amend their complaint, it shall be filed within 30 days of this Order.

Initial Case Management Conference:

Parties will be REFERRED to Magistrate Judge Laurel Beeler or if not available, another Magistrate Judge, for early Settlement Conference to be completed within 90 days. Initial Disclosures are complete. Discovery is stayed until after the Settlement Conference.

Further Case Management Conference set for 1/17/2019 at 10:30 a.m. Joint CMC Statement due 1/10/2019.